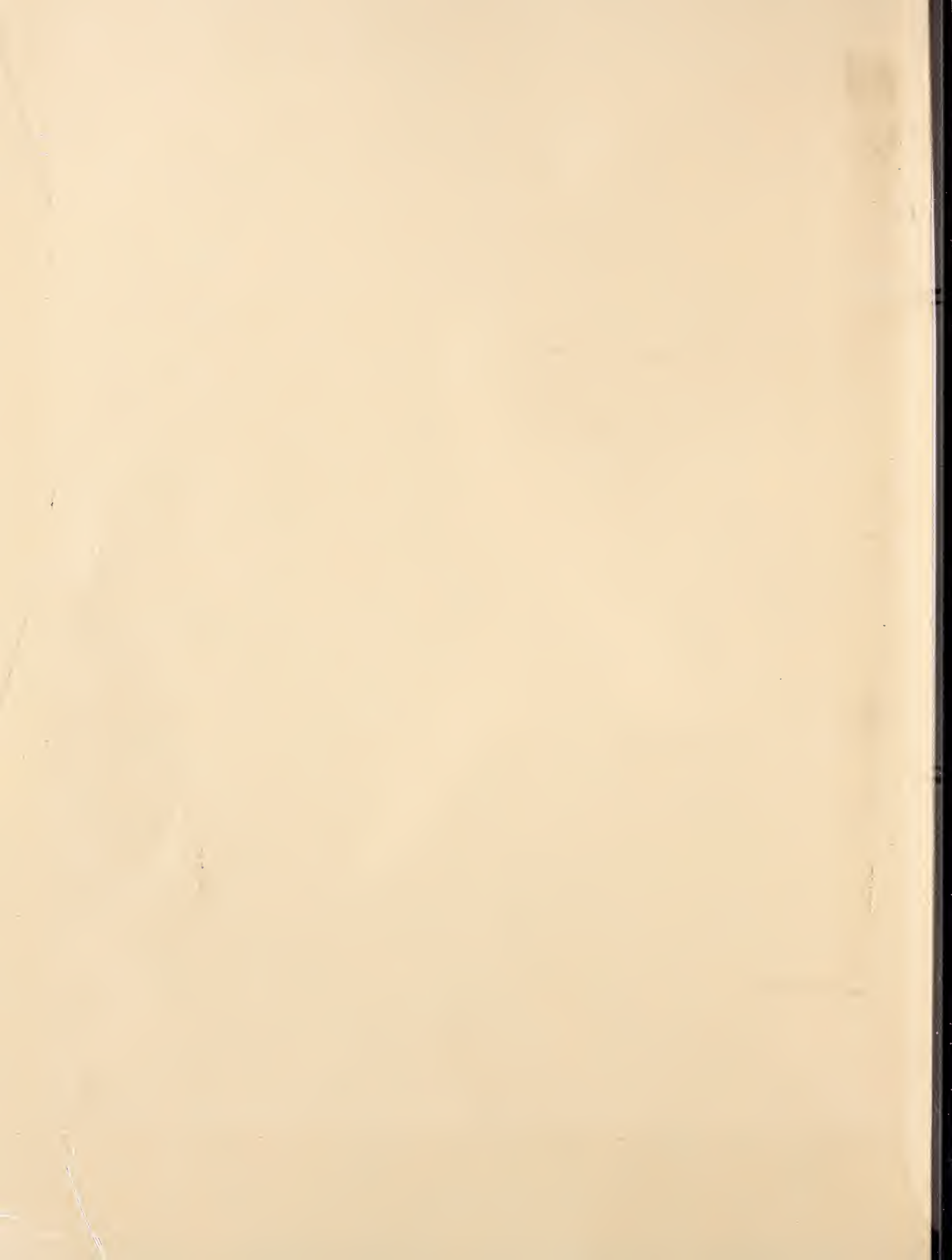


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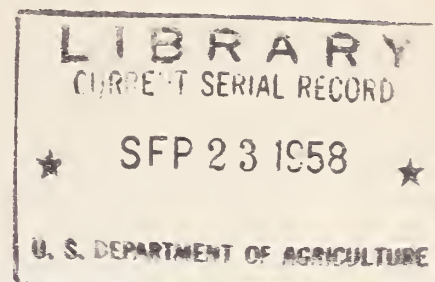
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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

Washington, D. C.



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**REGULATIONS**  
*governing*  
**INSPECTION AND CERTIFICATION**  
*of*  
**PROCESSED FRUITS AND VEGETABLES**  
*and*  
**RELATED PRODUCTS**

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EFFECTIVE JULY 1, 1958

The Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products were published in the Federal Register May 22, 1957 (22 F.R. 3535); Sections 52.3, 52.53, 52.42, 52.44, 52.45, 52.47, 52.48, 52.49 and 52.50 were amended effective July 1, 1958 (23 F.R. 4999).

These revisions are included in this publication designated as SRA-AMS 155, Revised, effective July 1, 1958.

These regulations set forth the rules that govern inspection and certification of processed products including sampling, fees, sanitary requirements for plants operating under continuous inspection and other related matters.

Inspection provides a means for determining compliance with standards and specifications, serves as a basis for quality control programs, for determining loan values and for sales transactions. It also aids in orderly marketing in many other respects.

Full particulars with reference to the inspection service may be obtained from

Chief, Processed Products Standardization  
and Inspection Branch  
Fruit and Vegetable Division  
Agricultural Marketing Service  
United States Department of Agriculture  
Washington 25, D. C.



# UNITED STATES DEPARTMENT OF AGRICULTURE

## AGRICULTURAL MARKETING SERVICE

### TITLE 7—AGRICULTURE

#### Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

#### PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS<sup>1</sup>

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52.1 Administration of regulations.

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<sup>1</sup> Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

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AUTHORITY: §§ 52.1 to 52.87 issued under sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624.

§ 52.1 *Administration of regulations.* The Administrator, Agricultural Marketing Service, United States Department of Agriculture is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the Agricultural Marketing Service of the Department, in his discretion.

##### DEFINITIONS

§ 52.2 *Terms defined.* Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

*Acceptance number.* "Acceptance number" means the number in a sampling plan that indicates the maximum number of deviants permitted in a sample of a lot that meets a specific requirement.

*Act.* "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U. S. C. 1621 et seq.), or any other act of Congress conferring like authority.

*Administrator.* "Administrator" means the Administrator of the Agricultural Marketing Service.

*Applicant.* "Applicant" means any interested party who requests inspection service under the regulations in this part.

*Case.* "Case" means the number of containers (cased or uncased) which, by the particular industry are ordinarily packed in a shipping container.

*Certificate of loading.* "Certificate of loading" means a statement, either written or printed, issued pursuant to the regulations in this part, relative to check-loading of a processed product subsequent to inspection thereof.

*Certificate of sampling.* "Certificate of sampling" means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

*Class.* "Class" means a grade or rank of quality.

*Condition.* "Condition" means the degree of soundness of the product which may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage or improper handling.

*Department.* "Department" means the United States Department of Agriculture.

*Deviant.* "Deviant" means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

*Deviation.* "Deviation" means any specifically defined variation from a particular requirement.

*Inspection certificate.* "Inspection certificate" means a statement, either written or printed, issued pursuant to



the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

*Inspection service.* "Inspection service" means:

(a) The sampling pursuant to the regulations in this part;

(b) The determination pursuant to the regulations in this part of:

(1) Essential characteristics such as style, type, size, sirup density or identity of any processed product which differentiates between major groups of the same kind;

(2) The class, quality and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;

(c) The issuance of any certificate of sampling, inspection certificates, or certificates of loading of a processed product, or any report relative to any of the foregoing; or

(d) Performance by an inspector of any related services such as assigning an inspector in a processing plant to observe the preparation of the product from its raw state through each step in the entire process, or observe conditions under which the product is being prepared, processed, and packed, or observe plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkload the inspected processed product in connection with the marketing of the processed product.

*Inspector.* "Inspector" means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

*Interested party.* "Interested party" means any person who has a financial interest in the commodity involved.

*Licensed sampler.* "Licensed sampler" means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Administrator, perform related services under the act and the regulations in this part.

*Lot.* "Lot" has the following meanings:

(a) For the purpose of charging fees and issuing certificates. "Lot" means any number of containers of the same size and type which contain a processed product of the same type and style located in the same or adjacent warehouses and which are available for inspection at any one time; *Provided*, That:

(1) Processed products in separate piles which differ from each other as to grade or other factors may be deemed to be separate lots;

(2) Containers in a pile bearing an identification mark different from other containers of such processed product in that pile, if determined to be of lower grade or deficient in other factors, may be deemed to be a separate lot; and

(3) If the applicant requests more than one inspection certificate covering different portions of such processed product, the quantity of the product covered by each certificate shall be deemed to be a separate lot.

(b) For the purpose of sampling and determining the grade or compliance with a specification, "Lot" means each pile of containers of the same size and type containing a processed product of the same type and style which is separated from other piles in the same warehouse, but containers, in the same pile bearing an identification mark different from other containers in that pile may be deemed to be a separate lot.

*Officially drawn sample.* "Officially drawn sample" means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Administrator pursuant to the regulations in this part.

*Person.* "Person" means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

*Plant.* "Plant" means the premises, buildings, structures, and equipment (including, but not being limited to, machines, utensils, and fixtures) employed or used with respect to the manufacture or production of processed products.

*Processed product.* "Processed product" means any fruit, vegetable, or other food product covered under these regulations which has been preserved by any recognized commercial process, including, but not limited to, canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

*Quality.* "Quality" means the inherent properties of any processed product which determine the relative degree of excellence of such product, and includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

*Rejection number.* "Rejection number" means the number in a sampling plan that indicates the minimum number of deviants in a sample that will cause a lot to fail a specific requirement.

*Sample.* "Sample" means any number of sample units to be used for inspection.

*Sample unit.* "Sample unit" means a container and/or its entire contents, a portion of the contents of a container or other unit of commodity, or a composite mixture of a product to be used for inspection.

*Sampling.* "Sampling" means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

*Secretary.* "Secretary" means the Secretary of the Department or any

other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary in respect to the matters covered by the regulations in this part.

*Shipping container.* "Shipping container" means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpackaged processed products for shipping.

*Unofficially drawn sample.* "Unofficially drawn sample" means any sample that has been selected by any person other than an inspector or licensed sampler, or by any other person not authorized by the Administrator pursuant to the regulations in this part.

§ 52.3 *Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.* Sub-section 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said sub-section and the provisions in this part, the terms listed below shall have the respective meanings specified:

*Official certificate.* "Official certificate" means any form of certification, either written or printed, including those defined in § 52.2, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

*Official device.* "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the United States Department of Agriculture grade standards and to facilitate conduct of the inspection service.

*Official identification.* "Official identification" means any United States (U. S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

*Official mark.* "Official mark" means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations



in such marks, including those prescribed in § 52.53 approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

*Official memorandum.* "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

#### INSPECTION SERVICE

§ 52.4 *Where inspection service is offered.* Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

§ 52.5 *Who may obtain inspection service.* An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

§ 52.6 *How to make application.* An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Administrator. Satisfactory proof that the applicant is an interested party shall be furnished.

§ 52.7 *Information required in connection with application.* Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, such application shall be confirmed promptly in writing. In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product for which application for inspection is made, including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previously to the application by any Federal agency and the purpose for which inspection is desired.

§ 52.8 *Filing of application.* An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this

part.

§ 52.9 *Record of filing time.* A record showing the date and hour when each application for inspection or for an appeal inspection is received shall be maintained.

§ 52.10 *When application may be rejected.* An application for inspection service may be rejected by the Administrator (a) for non-compliance by the applicant with the regulations in this part, (b) for non-payment for previous inspection services rendered, (c) when the product is not properly identifiable by code or other marks, or (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

§ 52.11 *When application may be withdrawn.* An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.48 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

§ 52.12 *Disposition of inspected sample.* Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

§ 52.13 *Basis of inspection and grade or compliance determination.* (a) Inspection service shall be performed on the basis of the appropriate United States standards for grades of processed products, Federal, Military, Veterans Administration or other government agency specifications, written contract specifications, or any written specification or instruction which is approved by the Administrator.

(b) Unless otherwise approved by the Administrator compliance with such grade standards, specifications, or instructions shall be determined by evaluating the product, or sample, in accordance with the requirements of such standards, specifications, or instructions: *Provided*, That when inspection for quality is based on any United States grade standard which contains a scoring system the grade to be assigned to a lot is the grade indicated by the average of the total scores of the sample units: *Provided further*, That:

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) With respect to those factors of quality which are rated by score points, each of the following requirements is met:

(i) None of the sample units falls more than one grade below the indicated grade because of any quality factor to which a limiting rule applies;

(ii) None of the sample units falls more than 4 score points below the minimum total score for the indicated grade; and

(iii) The number of sample units classed as deviants does not exceed the applicable acceptance number indicated in the sampling plans contained in § 52.38. A "deviant," as used in this paragraph, means a sample unit that falls into the next grade below the indicated grade but does not score more than 4 points below the minimum total score for the indicated grade.

(5) If any of the provisions contained in subparagraphs (3) and (4) of paragraph (b) of this section are not met the grade is determined by considering such provisions in connection with successively lower grades until the grade of the lot, if assignable, is established.

§ 52.14 *Order of inspection service.* Inspection service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§ 52.15 *Postponing inspection service.* If the inspector determines that it is not possible to accurately ascertain the quality or condition of a processed product immediately after processing because the product has not reached equilibrium in color, sirup density, or drained weight, or for any other substantial reason, he may postpone inspection service for such period as may be necessary.

§ 52.16 *Financial interest of inspector.* No inspector shall inspect any processed product in which he is directly or indirectly financially interested.

§ 52.17 *Forms of certificates.* Inspection certificates, certificates of sampling or loading, and other memoranda concerning inspection service shall be issued on forms approved by the Administrator.

§ 52.18 *Issuance of certificates.* (a) An inspection certificate may be issued only by an inspector: *Provided*, That, another employee of the inspection service may sign any such certificate covering any processed product inspected by an inspector when given power of attorney by such inspector and authorized by the Administrator, to affix the inspector's signature to an inspection certificate which has been prepared in accordance with the facts set forth in the notes, made by the inspector, in connection with the inspection.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided*, That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler and authorized by the



Administrator to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

**§ 52.19 Issuance of corrected certificates.** A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

**§ 52.20 Issuance of an inspection report in lieu of an inspection certificate.** A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided, That, the issuance of such report is approved by the Administrator.*

**§ 52.21 Disposition of inspection certificates.** The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Administrator may designate. Additional copies of any such certificates may be supplied to any interested party as provided in § 52.50.

**§ 52.22 Report of inspection results prior to issuance of formal report.** Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other person designated by him, at his expense.

#### APPEAL INSPECTION

**§ 52.23 When appeal inspection may be requested.** An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the Administrator the time within which an application for appeal inspection may be made may be extended.

**§ 52.24 Where to file for an appeal inspection and information required.** (a) Application for an appeal inspection may be filed with:

(1) The inspector who issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

**§ 52.25 When an application for an appeal inspection may be withdrawn.** An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided, That, the applicant shall pay at the hourly rate prescribed in § 52.48 of this part, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.*

**§ 52.26 When appeal inspection may be refused.** An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

**§ 52.27 Who shall perform appeal inspection.** An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Administrator and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided, That, the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.*

**§ 52.28 Appeal inspection certificate.** After an appeal inspection has been

completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who received copies of the superseded certificate.

#### LICENSING OF SAMPLERS AND INSPECTORS

**§ 52.29 Who may become licensed sampler.** Any person deemed to have the necessary qualifications may be licensed as a licensed sampler to draw samples for the purpose of inspection under the regulations in this part. Such a license shall bear the printed signature of the Secretary, and shall be countersigned by an authorized employee of the Department. Licensed samplers shall have no authority to inspect processed products under the regulations in this part except as to identification and condition of the containers in a lot. A licensed sampler shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

**§ 52.30 Application to become a licensed sampler.** Application to become a licensed sampler shall be made to the Administrator on forms furnished for that purpose. Each such application shall be signed by the applicant in his own handwriting, and the information contained therein shall be certified by him to be true, complete, and correct to the best of his knowledge and belief, and the application shall contain or be accompanied by:

(a) A statement showing his present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the ten years previous to the date of his application;

(b) A statement that, in his capacity as a licensed sampler, he will not draw samples from any lot of processed products with respect to which he or his employer is an interested party;

(c) A statement that he agrees to comply with all terms and conditions of



the regulations in this part relating to duties of licensed samplers; and

(d) Such other information as may be requested.

§ 52.31 *Inspectors.* Inspections will ordinarily be performed by employees under the Administrator who are employed as Federal Government employees for that purpose. However, any person employed under any joint Federal-State inspection service arrangement may be licensed, if otherwise qualified, by the Secretary to make inspections in accordance with this part on such processed products as may be specified in his license. Such license shall be issued only in a case where the Administrator is satisfied that the particular person is qualified to perform adequately the inspection service for which such person is to be licensed. Each such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. An inspector shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

§ 52.32 *Suspension or revocation of license of licensed sampler or licensed inspector.* Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid seven days period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

§ 52.33 *Surrender of license.* Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

#### SAMPLING

§ 52.34 *How samples are drawn by inspectors or licensed samplers.* An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Administrator, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a rep-

resentative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

§ 52.35 *Accessibility for sampling.* Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

§ 52.36 *How officially drawn samples are to be identified.* Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

§ 52.37 *How samples are to be shipped.* Unless otherwise directed by the Administrator, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid, if possible, any material change in the quality or condition of the sample of the processed product. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant and wherever practicable, such charges shall be prepaid by him.

§ 52.38 *Sampling plans and procedures for determining lot compliance.* (a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the Administrator, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable single sampling plan or, at the discretion of the inspection service, any comparable multiple sampling plan: *Provided*, That at the discretion of the inspection service the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the single sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size the lot fails the requirement.

(c) Under the multiple sampling plans inspection commences with the smallest sample size indicated under the appropriate plan and with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered does not exceed the acceptance

number prescribed for that sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered equals or exceeds the rejection number prescribed for that sample size, the lot fails the requirement; or

(3) If the number of deviants (as defined in connection with the specific requirement) in the sample being considered falls between the acceptance and rejection numbers of the plan, additional sample units are added to the sample so that the sample thus cumulated equals the next larger cumulative sample size in the plan. It may then be determined that the lot meets or fails the specific requirement by considering the cumulative sample and applying the procedures outlined in subparagraphs (1) and (2) of this paragraph or by considering successively larger samples cumulated in the same manner until the lot meets or fails the specific requirement.

(d) If in the conduct of any type of in-plant inspection the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot but does not equal any of the prescribed larger sample sizes the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size the lot fails the requirement.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, V, VI, and VII which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container size and amount of product to be sampled.



## SINGLE SAMPLING PLANS AND ACCEPTANCE LEVELS

TABLE I—CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
<b>GROUP 1</b> Any type of container of less volume than that of a No. 300 size can (300 x 407).	3,600 or less...	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000.
<b>GROUP 2</b> Any type of container of a volume equal to or exceeding that of a No. 300 size can, but not exceeding that of a No. 3 cylinder size can (404 x 700).	2,400 or less...	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
<b>GROUP 3</b> Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can (603 x 812).	1,200 or less...	1,201-7,200	7,201-15,000	15,001-24,000	24,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
<b>GROUP 4</b> Any type of container of a volume exceeding that of a No. 12 size can, but not exceeding that of a 5-gallon container.	200 or less...	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000.
<b>GROUP 5</b> Any type of container of a volume exceeding that of a 5-gallon container.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans <sup>1</sup>									
Sample size (number of sample units). <sup>2</sup>	3	6	13	21	29	33	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

<sup>1</sup> For extension of the single sample sizes beyond 72 sample units, refer to table VI of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VII of this section.

<sup>2</sup> The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II—FROZEN OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS THEREOF CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

Container size group	Lot size (number of containers)								
<b>GROUP 1</b> Any type of container of 1 pound or less net weight.	2,400 or less...	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
<b>GROUP 2</b> Any type of container over 1 pound but not over 4 pounds net weight.	1,800 or less...	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
<b>GROUP 3</b> Any type of container over 4 pounds but not over 10 pounds net weight.	900 or less...	901-3,600	3,601-10,800	10,801-18,000	18,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
<b>GROUP 4</b> Any type of container over 10 pounds but not over 100 pounds net weight.	200 or less...	201-800	801-1,600	1,601-2,400	2,401-3,600	3,601-8,000	8,001-16,000	16,001-28,000	Over 28,000.
<b>GROUP 5</b> Any type of container over 100 pounds net weight.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans <sup>1</sup>									
Sample size (number of sample units). <sup>2</sup>	3	6	13	21	29	33	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

<sup>1</sup> For extension of the single sample sizes beyond 72 sample units, refer to table VI of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VII of this section.

<sup>2</sup> The sample units for the various container size groups are as follows: Groups

1, 2, and 3—1 container and its entire contents. Groups 4 and 5—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.



TABLE III—CANNED, FROZEN, OR OTHERWISE PROCESSED FRUITS, VEGETABLES, RELATED PRODUCTS, AND PRODUCTS THEREOF OF A COMMINUTED, FLUID, OR HOMOGENEOUS STATE

Container size group <sup>1</sup>	Lot size (number of containers)								
<b>GROUP 1</b>									
Any type of container of 12 ounces or less.	5,400 or less	5,401-21,600	21,601-62,400	62,401-112,000	112,001-174,000	174,001-240,000	240,001-360,000	360,001-480,000	Over 480,000.
<b>GROUP 2</b>									
Any type of container over 12 ounces but not over 60 ounces.	3,600 or less	3,601-14,400	14,401-48,000	48,001-96,000	96,001-156,000	156,001-228,000	228,001-300,000	300,001-420,000	Over 420,000.
<b>GROUP 3</b>									
Any type of container over 60 ounces but not over 160 ounces.	1,800 or less	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
<b>GROUP 4</b>									
Any type of container over 160 ounces but not over 10 gallons or 100 pounds whichever is applicable.	200 or less	201-800	801-1,600	1,601-3,200	3,201-8,000	8,001-16,000	16,001-24,000	24,001-32,000	Over 32,000.
<b>GROUP 5</b>									
Any type of container over 10 gallons or 100 pounds whichever is applicable.	25 or less	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
<b>GROUP 6—HONEY ONLY</b>									
Any type of container of a volume equal to or exceeding that of a 5-gallon container.	20 or less	21-150	151-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.	
Single sampling plans <sup>2</sup>									
Sample size (number of sample units). <sup>3</sup>	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

<sup>1</sup> Ounces pertain to either fluid ounces of volume or avoirdupois ounces of net weight whichever is applicable for the product involved.

<sup>2</sup> For extension of the single sample sizes beyond 72 sample units, refer to table VI of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VII of this section.

<sup>3</sup> The sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the inspector's discretion. Groups 4, 5, and 6—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.

TABLE IV—DEHYDRATED (LOW-MOISTURE) FRUITS AND VEGETABLES

Container size group	Lot size (number of containers)								
<b>GROUP 1</b>									
Any type of container of 1 pound or less net weight.	1,800 or less	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
<b>GROUP 2</b>									
Any type of container over 1 pound but not over 6 pounds net weight.	900 or less	901-3,600	3,601-10,800	10,801-18,000	18,001-36,000	36,001-60,000	60,001-84,000	84,001-120,000	Over 120,000.
<b>GROUP 3</b>									
Any type of container over 6 pounds but not over 20 pounds net weight.	200 or less	201-800	801-1,600	1,601-3,200	3,201-8,000	8,001-16,000	16,001-24,000	24,001-32,000	Over 32,000.
<b>GROUP 4</b>									
Any type of container over 20 pounds but not over 100 pounds net weight.	48 or less	49-400	401-1,200	1,201-2,000	2,001-2,800	2,801-6,000	6,001-9,600	9,601-15,000	Over 15,000.
<b>GROUP 5</b>									
Any type of container over 100 pounds net weight.	16 or less	17-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.
Single sampling plans <sup>1</sup>									
Sample size (number of sample units). <sup>2</sup>	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

<sup>1</sup> For extension of the single sample sizes beyond 72 sample units, refer to table VI of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VII of this section.

<sup>2</sup> The sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Groups 2, 3, 4, and 5—1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.



TABLE V—DRIED FRUIT

Container size group	Lot size (number of containers)								
<b>GROUP 1</b>									
Any type of container of 1 pound or less net weight.	2,400 or less...	2,401-12,000	12,001-24,000	24,001-48,000	48,001-72,000	72,001-108,000	108,001-168,000	168,001-240,000	Over 240,000.
<b>GROUP 2</b>									
Any type of container over 1 pound but not over 5 pounds net weight.	1,800 or less...	1,801-8,400	8,401-18,000	18,001-36,000	36,001-60,000	60,001-96,000	96,001-132,000	132,001-168,000	Over 168,000.
<b>GROUP 3</b>									
Any type of container over 5 pounds but less than 20 pounds net weight.	400 or less...	401-1,600	1,601-4,800	4,801-9,600	9,601-18,000	18,001-36,000	36,001-54,000	54,001-84,000	Over 84,000.
<b>GROUP 4</b>									
Any type of container equal to or exceeding 20 pounds but not over 100 pounds net weight.	100 or less...	101-600	601-1,200	1,201-2,000	2,001-2,800	2,801-6,000	6,001-9,600	9,601-15,000	Over 15,000.
<b>GROUP 5</b>									
Any type of container over 100 pounds net weight.	25 or less....	26-80	81-200	201-400	401-800	801-1,200	1,201-2,000	2,001-3,200	Over 3,200.

Single sampling plans <sup>1</sup>

Sample size (number of sample units.) <sup>2 3</sup>	3	6	13	21	29	38	48	60	72
Acceptance number.....	0	1	2	3	4	5	6	7	8

<sup>1</sup> For extension of the single sample sizes beyond 72 sample units, refer to table VI of this section; for multiple sampling plans comparable to the various single sampling plans refer to table VII of this section.

<sup>2</sup> The sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Group 2—1 container and its entire contents or a smaller sample unit of 16 ounces of product or more when determined by the in-

spector to be adequate. Groups 3, 4, and 5—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.

<sup>3</sup> In no case, shall the total of all the sample units selected yield less than 100 figs or 200 fig slices; 20 ounces of raisins; 25 ounces of dates; or 56 ounces of other dried fruit.

TABLE VI—SINGLE SAMPLING PLANS FOR USE IN INCREASING SAMPLE SIZE BEYOND 72 SAMPLE UNITS

Sample size, <i>n</i> .....	84	96	108	120	132	144	156	168	180	192	204	216	230	244	258	272	286	300	314	328	342	356	370	384	400
Acceptance numbers, <i>c</i> .....	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33

MULTIPLE SAMPLING PLANS <sup>1</sup>

TABLE VII—MULTIPLE SAMPLING PLANS COMPARABLE TO THE INDICATED SINGLE SAMPLING PLANS

Indicated single sampling plan:																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																</
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<sup>1</sup> These multiple sampling plans may be used in lieu of the single sampling plans listed at the heading of each column.

§ 52.39 *Issuance of certificate of sampling.* Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that an inspector who inspects the samples which he has drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the inspector or licensed sampler (as the case may be) and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Administrator.

§ 52.40 *Identification of lots sampled.* Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by

the Administrator, if such lots do not otherwise possess suitable identification.

§ 52.41 *Payment of fees and charges.* Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Administrator, or a surety bond suitable to the Administrator, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service performed pursuant to the regu-

lations in this part shall be paid by check, draft, or money order payable to the Agricultural Marketing Service and remitted to the office of inspection serving the area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Administrator, in which latter event the contract provisions shall apply.

§ 52.42 *Schedule of fees.* (a) Unless otherwise provided in a written agreement between the applicant and the Administrator, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any agency or instrumentality thereof, shall be at the rate of \$5.00 per hour.



(b) Unless otherwise provided in this part, the fees to be charged and collected for any inspection service performed under this part shall be based on the applicable rates specified in this section to which may be added charges for such micro, chemical, and certain other special analyses, which may be requested by the applicant or required by the inspector to determine the quality or condition of the processed product, as are specified in § 52.47.

(1) *Canned or similarly processed fruits, vegetables, honey, and products thereof.*

#### OFFICIALLY DRAWN SAMPLES

For each lot packed in containers of a volume not exceeding that of a No. 12 size can (603 x 812) except canned pineapple and canned pineapple juice inspected in Puerto Rico:

Minimum fee for 600 cases or less.....	<sup>1</sup> \$10.00
For each additional 100 cases, or fraction thereof, in excess of 600 cases but not in excess of 10,000 cases .....	<sup>1</sup> 1.00
For each additional 100 cases, or fraction thereof, in excess of 10,000 cases.....	<sup>1</sup> .80

For each lot of canned pineapple and canned pineapple juice inspected in Puerto Rico:

The fee for each case of 24 containers or less.....	\$0.015
The fee for each case of more than 24 containers .....	.020
The minimum fee for any lot.....	6.00

<sup>1</sup> However, the fee for any additional lots of 200 cases or less which are offered for inspection by the same applicant at the same time and which are available for inspection at the same time and place shall be \$7.50.

For each lot of honey packed in containers of a volume exceeding that of a No. 12 size can (603 x 812), the fee for sampling and inspecting the samples shall be in accordance with the following schedule:

(a) For sampling the honey, including travel time, per hour.....	\$5.00
(b) For inspection—each sample unit.....	1.00
(c) For liquefying crystalized or partially crystalized honey for any one applicant at any one time—each group of 15 sample units or fraction thereof.....	5.00
(d) Minimum fee for any lot.....	10.00

#### UNOFFICIALLY DRAWN SAMPLES

For containers of a volume not exceeding that of a No. 3 size can (404 x 414):

Minimum fee for 4 containers or less.....	\$5.00
For each additional container in excess of 4 containers.....	1.00

For containers of a volume exceeding that of a No. 3 size can (404 x 414), but not exceeding that of a No. 12 size can (603 x 812):

Minimum fee for 2 containers or less.....	\$5.00
For each additional container in excess of 2 containers.....	2.50

(2) *Frozen or other similarly processed fruits, vegetables, and products thereof.*

#### OFFICIALLY DRAWN SAMPLES

For each lot other than frozen corn-on-the-cob:

Minimum fee for 10,000 pounds or less.....	<sup>2</sup> \$10.00
For each additional 5,000 pounds or fraction thereof, in excess of 10,000 pounds but not in excess of 100,000 pounds .....	<sup>2</sup> 2.50
For each additional 5,000 pounds, or fraction thereof, in excess of 100,000 pounds.....	<sup>2</sup> 2.00

For each lot of frozen corn-on-the-cob:

Minimum fee for 1,500 dozen ears or less.....	<sup>3</sup> \$10.00
For each additional 1,000 dozen ears, or fraction thereof, in excess of 1,500 dozen ears but not exceeding 15,000 dozen ears.....	<sup>3</sup> 2.50
For each additional 1,000 dozen ears, or fraction thereof, in excess of 15,000 dozen ears.....	<sup>3</sup> 2.00

#### UNOFFICIALLY DRAWN SAMPLES

Minimum fee for 2 sample units or less of any type or weight.....	\$5.00
For each additional sample unit in excess of 2 sample units.....	2.50

<sup>2</sup> However, the fee for any additional lots of 1,500 pounds or less which are offered for inspection by the same applicant at the same time and which are available for inspection at the same time and place shall be \$7.50.

<sup>3</sup> However, the fee for any additional lots of 250 dozen or less which are offered for inspection by the same applicant at the same time and which are available for inspection at the same time and place shall be \$7.50.

(3) *Dried fruits other than figs and dates.*

#### OFFICIALLY DRAWN SAMPLES

Each lot:

Minimum fee for 12,000 pounds or less .....	\$10.00
For each additional 2,000 pounds, or fraction thereof, in excess of 12,000 pounds.....	1.00

#### UNOFFICIALLY DRAWN SAMPLES

Each sample unit.....	\$5.00
-----------------------	--------

(4) *Dried figs and dates.*

#### OFFICIALLY DRAWN SAMPLES

Each lot:

Minimum fee for 8,000 pounds or less .....	\$10.00
For each additional 2,000 pounds, or fraction thereof, in excess of 8,000 pounds .....	2.50

#### UNOFFICIALLY DRAWN SAMPLES

Each sample unit.....	\$5.00
-----------------------	--------

(5) *Edible sugarcane molasses, sugarcane sirup, and refiners sirup.*

#### OFFICIALLY AND UNOFFICIALLY DRAWN SAMPLES

The total fee for sampling and inspection of samples shall be in accordance with the following schedule:

(a) For sampling the product, including travel time per hour.....	\$5.00
(b) For inspecting—each sample.....	1.00
(c) Minimum fee for any lot.....	10.00

(6) *Coffee.*

#### OFFICIALLY AND UNOFFICIALLY DRAWN SAMPLES

The total fee for sampling and inspection of samples shall be in accordance with the following schedule:

(a) For sampling the coffee, including travel time, per hour.....	\$5.00
(b) Green bean grading—each sample unit.....	5.00
(c) Complete inspection, green bean grading and cupping—each sample unit.....	7.50

(7) *Other processed food products.*

The fee to be charged and collected for the inspection of any processed product not included in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph shall be at the rate of \$5.00 per hour for the time consumed by the inspector in making the inspection, including the time consumed in sampling by the inspector or licensed sampler: *Provided*, That, fees for sampling time will not be assessed by the office of inspection when such fees have been assessed and collected directly from the applicant by a licensed sampler.

§ 52.43 *Fees to be charged and collected for sampling when performed by a licensed sampler.* Such sampling fees as are specifically prescribed by the Administrator in connection with the licensing of the particular sampler (which fees are to be prescribed in the light of the sampling work to be performed by such sampler and other pertinent factors) may be assessed and collected by such licensed sampler directly from the applicant: *Provided*, That if such licensed sampler is an employee of a State, the appropriate authority of that State may make the collection, or they may be assessed and collected by the office of inspection serving the area where the services are performed.

§ 52.44 *Inspection fees when charges for sampling have been collected by a licensed sampler.* For each lot of processed products from which samples have been drawn by a licensed sampler and with respect to which the sampling fee has been collected by the licensed sampler, the fee to be charged for the inspection shall be 75 percent of the fee provided in this part applicable to the respective processed product: *Provided*, That, if the fee charged for the inspection service is based on the hourly rate of charge, the fee shall be at the rate of \$5.00 per hour prescribed in this part.

§ 52.45 *Inspection fees when charges for sampling have not been collected by a licensed sampler.* For each lot of processed products from which samples have been drawn by a licensed sampler, and with respect to which the sampling fee has not been collected by the licensed sampler, the fee to be charged for the inspection shall be 75 percent of the fee as prescribed in this part, plus a reasonable charge to cover the cost of sampling as may be determined by the Administrator: *Provided*, That, if the fee charged is based on the hourly rate,



The fee shall be at the rate of \$5.00 per hour prescribed in this part, plus a reasonable charge to cover the cost of sampling, as determined by the Administrator.

#### § 52.46 Fee for appeal inspection.

The fee to be charged for an appeal inspection shall be at the rates prescribed in this part for other inspection services: *Provided*, That, if the result of any appeal inspection made for any applicant, other than the United States or any agency or instrumentality thereof, discloses that a material error was made in the inspection on which the appeal is made, no inspection fee shall be assessed.

#### § 52.47 Charges for micro, chemical, and certain other special analyses. (a)

The following charges shall be made for micro, chemical, and certain other special analyses which may be requested by the applicant or required by the inspector to determine the quality or condition of the processed product. When any of these analyses are made at the request of an applicant and are not in connection with an inspection to determine the quality or condition of the product, the listed fees shall be increased by 50 percent.

Type of analysis	For first analysis	For each additional analysis
Mold count.....	\$2.00	\$1.50
Worm larvae and insect fragment count.....	5.00	3.00
Fly egg and maggot count.....	3.00	1.50
Alcohol insoluble solids.....	5.00	3.00
Alcohol (distillation and specific gravity).....	10.00	5.00
Ascorbic acid (vitamin C).....	10.00	2.50
Total ash (carbonated or sulfated).....	5.00	3.00
Ash, acid insoluble.....	5.00	3.00
Ash, water soluble or water insoluble.....	5.00	3.00
Ash, NaCl free (approximate method—total ash less NaCl).....	10.00	5.00
Ash, NaCl free ( $P_2O_5 \times 2$ ).....	15.00	7.50
Catalase test.....	3.00	1.50
Crude fiber.....	15.00	7.50
Dilastase test for honey (AOAC method).....	7.50	5.00
Ether extract (crude fat).....	10.00	5.00
Fat (acid hydrolysis).....	10.00	5.00
Fiber (green and wax bean).....	7.50	5.00
Iodine number.....	10.00	5.00
Moisture (air oven method).....	3.00	3.00
Moisture (vacuum oven method).....	3.00	3.00
Nitrogen or crude protein.....	10.00	5.00
Non-volatile ether extract.....	10.00	5.00
Oil, volatile.....	10.00	5.00
Oil of lemon with oil base (distillation method).....	5.00	5.00
Phosphorous pentoxide ( $P_2O_5$ ).....	15.00	7.50
Potash ( $K_2O$ ).....	15.00	7.50
Recoverable oil.....	3.00	2.00
Peroxidase test (frozen vegetables).....	5.00	2.50
Reducing sugars.....	15.00	7.50
Reducing sugars plus sucrose.....	20.00	15.00
Sucrose (direct polarization).....	5.00	3.00
Sucrose (chemical methods).....	20.00	15.00
Starch or carbohydrates (direct hydrolysis).....	20.00	15.00
Sulphur dioxide (direct titration).....	5.00	2.50
Sulphur dioxide (distillation method).....	7.50	5.00
Sodium.....	12.50	6.00
Total solids (drying method).....	3.00	3.00
Vanillin (colorimetric).....	7.50	5.00
Volatile and non-volatile ether extract.....	10.00	5.00
Water extract.....	5.00	5.00
Water - Insoluble - Inorganic - residue (peanut butter).....	7.50	5.00
Water - Insoluble - Inorganic - residue, filth analysis, and particle count (peanut butter).....	15.00	10.00

(b) The following charges shall be made for analyses which are requested by an applicant and are not in connection with an inspection to determine the

quality or condition of the product. When these analyses are made in connection with an inspection to determine the quality or condition of the product no fee shall be charged for the analyses.

Type of analysis	For first analysis	For each additional analysis
Brix readings (refractometric or spindle).....	\$2.50	\$1.00
Brix readings (double dilution).....	3.00	2.00
Total acidity (direct titration).....	2.50	1.00
Free fatty acids.....	5.00	2.50
Salt (NaCl)—direct titration.....	2.50	1.00
Soluble solids (refractometric method).....	2.50	1.00
Total solids (refractometric method).....	2.50	1.00
Color determination of extracted honey.....	5.00	1.00
Color determination of sugarcane molasses or sugarcane sirup.....	5.00	1.50

§ 52.48 When charges are to be based on hourly rate not otherwise provided for in this part. When inspection is for condition only or when inspection services or related services are rendered and formal certificates are not issued or when the services rendered are such that charges based upon the foregoing sections would be inadequate or inequitable, charges may be based on the time consumed by the inspector in performance of such inspection service at the rate of \$5.00 per hour.

§ 52.49 Fees for score sheets. If the applicant for inspection service requests score sheets showing in detail the inspection of each container or sample inspected and listed thereon, such score sheets may be furnished by the inspector in charge of the office of inspection serving the area where the inspection was performed; and such applicant shall be charged at the rate of \$2.50 for each twelve sample units, or fraction thereof, inspected and listed on such score sheets.

§ 52.50 Fees for additional copies of inspection certificates. Additional copies of any inspection certificate other than those provided for in § 52.21, may be supplied to any interested party upon payment of a fee of \$2.50 for each set of five (5) or fewer copies.

§ 52.51 Travel and other expenses. Charges may be made to cover the cost of travel and other expenses incurred in connection with the performance of any inspection service, including appeal inspections: *Provided*, That, if charges for sampling or inspection are based on an hourly rate, an additional hourly charge may be made for travel time including time spent waiting for transportation as well as time spent traveling, but not to exceed eight hours of travel time for any one person for any one day: *And provided further*, That, if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

§ 52.52 Charges for inspection service on a contract basis. (a) Irrespective of fees and charges prescribed in foregoing sections, the Administrator may enter into contracts with applicants to perform continuous inspection services

or other inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection service provided in such contracts shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator.

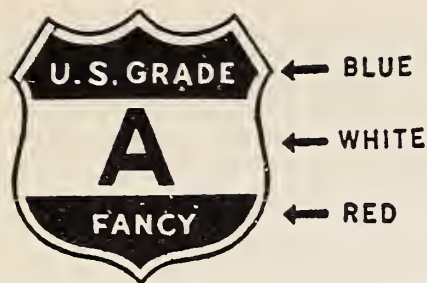
(b) Irrespective of fees and charges prescribed in the foregoing sections, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et. seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator. Likewise, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with the administration of a similar program operated pursuant to the laws of any State.

(c) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

#### MISCELLANEOUS

§ 52.53 Approved identification—(a) *Grade marks*. The approved grade mark or identification may be used on containers, labels or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such grade, quality or classification. The grade marks approved for use shall be similar in form and design to the examples in Figures 1 through 5 of this section.





Shield using red, white, and blue background or other colors appropriate for label.

FIGURE 1.



Shield with plain background.

FIGURE 2.

U. S. GRADE A

FIGURE 3.

U. S. CHOICE

FIGURE 4.

U. S.  
GRADE  
B

FIGURE 5.

(b) *Inspection marks.* The approved inspection marks may be used on containers, labels or otherwise indicated for any processed product that (1) has been packed under continuous inspection as provided in this part to assure compliance with the requirements for wholesomeness established for the raw product and of sanitation established for the preparation and processing operations, and (2) has been certified by an inspector as meeting the requirements of such quality or grade classification as may be approved by the Administrator. The inspection marks approved for use shall be similar in form and design to the examples in Figures 6, 7, and 8 of this section.



Statement enclosed within a shield.

FIGURE 6.

PACKED UNDER  
CONTINUOUS  
INSPECTION  
OF THE  
U. S. DEPT. OF  
AGRICULTURE

Statements without the use of the shield.

FIGURE 7.

PACKED BY

UNDER CONTINUOUS

INSPECTION OF THE

U. S. DEPT. OF AGRICULTURE

FIGURE 8.

(c) *Combined grade and inspection marks.* The grade marks set forth in paragraph (a) of this section and the inspection marks set forth in paragraph (b) of this section may be combined into a consolidated grade and inspection mark for use on processed products that have been packed under continuous inspection as provided in this part.

(d) *Products not eligible for approved identification.* Processed products which have not been packed under continuous inspection as provided for in this part shall not be identified by approved grade or inspection marks (except honey and maple sirup which may bear such grade marks), but such products may be inspected on a lot inspection basis as provided in this part and identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sample mark similar in form and design to the example in Figure 9 of this section.



FIGURE 9.

(e) *Licensing and identification of certain official devices.* The Administrator may issue licenses permitting the manufacture, identification, distribution, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be revocable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

#### § 52.54 *Fraud or misrepresentation.*

Any or all benefits of the act may be denied any person committing wilful misrepresentation or any deceptive or fraudulent practice in connection with:

(a) The making or filing of an application for any inspection service;

(b) The submission of samples for inspection;

(c) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(d) The use of the words "Packed under continuous inspection of the U. S. Department of Agriculture," any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(e) The use of a facsimile form which simulates in whole or in part any official U. S. certificate for the purpose of purporting to evidence the U. S. grade of any processed product; or

(f) Any wilful violation of the regulations in this part or supplementary rules or instructions issued by the Administrator.

§ 52.55 *Political activity.* All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 52.56 *Interfering with an inspector or licensed sampler.* Any further benefits of the act may be denied any applicant or other interested party who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, assault, or in any other manner, an inspector or licensed sampler in the performance of his duties.

§ 52.57 *Compliance with other laws.* None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.



§ 52.58 *Identification.* Each inspector and licensed sampler shall have in his possession at all times and present upon request, while on duty, the means of identification furnished by the Department to such person.

**REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS<sup>7</sup>**

§ 52.81 *Plant survey.* (a) Prior to the inauguration of continuous inspection service on a contract basis, the Administrator will make, or cause to be made, a survey and inspection of the plant where such service is to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such services in accordance with:

(1) The regulations in this part, including, but not limited to, the requirements contained in §§ 52.81 through 52.87; and

(2) The terms and provisions of the contract pursuant to which the service is to be performed.

§ 52.82 *Premises.* The premises of the plant shall be free from conditions objectionable to food processing operations; and such conditions include, but are not limited to, the following:

(a) Strong offensive odors;

(b) Litter, waste, and refuse (e. g., garbage, viner refuse, and damaged containers) within the immediate vicinity of the plant buildings or structures;

(c) Excessively dusty roads, yards, or parking lots; and

(d) Poorly drained areas.

§ 52.83 *Buildings and structures.* The plant buildings and structures shall be properly constructed and maintained in a sanitary condition, including, but not being limited to, the following requirements:

(a) There shall be sufficient light (1) consistent with the use to which the particular portion of the building is devoted and (2) to permit efficient cleaning. Belts and tables on which picking, sorting, or trimming operations are carried on shall be provided with sufficient nonglaring light to insure adequacy of the respective operation.

(b) If practicable, there shall be sufficient ventilation in each room and compartment thereof to prevent excessive condensation of moisture and to insure sanitary and suitable processing and operating conditions. If such ventilation does not prevent excessive condensation, the Administrator may require that suitable facilities be provided to prevent the condensate from coming in contact with equipment used in processing operations and with any ingredient used in the manufacture or production of a processed product.

(c) There shall be an efficient waste disposal and plumbing system. All

drains and gutters shall be properly installed with approved traps and vents, and shall be maintained in good repair and in proper working order.

(d) There shall be ample supply of both hot and cold water; and the water shall be of safe and sanitary quality with adequate facilities for its (1) distribution throughout the plant, and (2) protection against contamination and pollution.

(e) Roofs shall be weather-tight. The walls, ceilings, partitions, posts, doors, and other parts of all buildings and structures shall be of such materials, construction, and finish as to permit their efficient and thorough cleaning. The floors shall be constructed of tile, cement, or other equally impervious material, shall have good surface drainage, and shall be free from openings or rough surfaces which would interfere with maintaining the floors in a clean condition.

(f) Each room and each compartment in which any processed products are handled, processed, or stored (1) shall be so designed and constructed as to insure processing and operating conditions of a clean and orderly character; (2) shall be free from objectionable odors and vapors; and (3) shall be maintained in a clean and sanitary condition.

(g) Every practical precaution shall be taken to exclude dogs, cats, and vermin (including, but not being limited to, rodents and insects) from the rooms in which processed products are being prepared or handled and from any rooms in which ingredients (including, but not being limited to, salt, sugar, spices, flour, syrup, and raw fruits and vegetables) are handled or stored. Screens, or other devices, adequate to prevent the passage of insects shall, where practical, be provided for all outside doors and openings. The use of poisonous cleansing agents, insecticides, bactericides, or rodent poisons shall not be permitted except under such precautions and restrictions as will prevent any possibility of their contamination of the processed product.

§ 52.84 *Facilities.* Each plant shall be equipped with adequate sanitary facilities and accommodations, including, but not being limited to, the following:

(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size, and conveniently located. Such rooms shall not open directly into rooms or compartments in which processed products are being manufactured or produced, or handled. Toilet rooms shall be adequately screened and equipped with self-closing doors and shall have independent outside ventilation.

(b) Lavatory accommodations (including, but not being limited to, running water, single service towels, and soap) shall be placed at such locations in or near toilet rooms and in the manufacturing or processing rooms or compartments as may be necessary to assure the cleanliness of each person handling ingredients used in the manufacture or production of processed products.

(c) Containers intended for use as containers for processed products shall

not be used for any other purpose.

(d) No product or material which creates an objectionable condition shall be processed, handled, or stored in any room, compartment, or place where any processed product is manufactured, processed, or handled.

(e) Suitable facilities for cleaning (e. g., brooms, brushes, mops, clean cloths, hose, nozzles, soaps, detergent, sprayers, and steam pressure hose and guns) shall be provided at convenient locations throughout the plant.

§ 52.85 *Equipment.* All equipment used for receiving, washing, segregating, picking, processing, packaging, or storing any processed products or any ingredients used in the manufacture or production thereof, shall be of such design, material, and construction as will:

(a) Enable the examination, segregation, preparation, packaging and other processing operations applicable to processed products, in an efficient, clean, and sanitary manner, and

(b) Permit easy access to all parts to insure thorough cleaning and effective bactericidal treatment. Insofar as is practicable, all such equipment shall be made of corrosion-resistant material that will not adversely affect the processed product by chemical action or physical contact. Such equipment shall be kept in good repair and sanitary condition.

§ 52.86 *Operations and operating procedures.* (a) All operations in the receiving, transporting, holding, segregating, preparing, processing, packaging and storing of processed products and ingredients, used as aforesaid, shall be strictly in accord with clean and sanitary methods and shall be conducted as rapidly as practicable and at temperatures that will not tend to cause (1) any material increase in bacterial or other micro-organic content, or (2) any deterioration or contamination of such processed products or ingredients thereof. Mechanical adjustments or practices which may cause contamination of foods by oil, dust, paint, scale, fumes, grinding materials, decomposed food, filth, chemicals, or other foreign materials shall not be conducted during any manufacturing or processing operation.

(b) All processed products and ingredients thereof shall be subjected to continuous inspection throughout each manufacturing or processing operation. All processed products which are not manufactured or prepared in accordance with the requirements contained in §§ 52.81 through 52.87 or are not fit for human food shall be removed and segregated prior to any further processing operation.

(c) All ingredients used in the manufacture or processing of any processed product shall be clean and fit for human food.

(d) The methods and procedures employed in the receiving, segregating, handling, transporting, and processing of ingredients in the plant shall be adequate to result in a satisfactory processed product. Such methods and procedures in-

<sup>7</sup> Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.



clude, but are not limited to, the following requirement:

(1) Containers, utensils, pans, and buckets used for the storage or transporting of partially processed food ingredients shall not be nested unless re-washed before each use;

(2) Containers which are used for holding partially processed food ingredients shall not be stacked in such manner as to permit contamination of the partially processed food ingredients;

(3) Packages or containers for processed products shall be clean when being filled with such products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is, or will be, in direct contact with such products. If, to assure a satisfactory finished product, changes in methods and procedures are required by the Administrator, such changes shall be effectuated as soon as practicable.

§ 52.87 *Personnel; health.* In addition to such other requirements as may be prescribed by the Administrator with respect to persons in any room or compartment where exposed ingredients are prepared, processed, or otherwise handled, the following shall be complied with:

(a) No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted;

(b) Infections or cuts shall be covered with rubber gloves or other suitable covering;

(c) Clean, suitable clothing shall be worn;

(d) Hands shall be washed immediately prior to starting work and each resumption of work after each absence from the work station;

(e) Spitting, and the use of tobacco are prohibited; and

(f) All necessary precautions shall be taken to prevent the contamination of processed products and ingredients thereof with any foreign substance (including, but not being limited to, perspiration, hair, cosmetics, and medications).



